

**UNITED STATES OF AMERICA**

**V.**

**JOSHUA AUSTIN.**

Defendant.

Case No. 1:15CR00022-001

## OPINION AND ORDER

By: James P. Jones  
United States District Judge

The defendant, sentenced to imprisonment by this court on November 18, 2015, has filed a pro se motion entitled “Motion Requesting a Judicial Recommendation Concerning Length of RRC/Halfway House Placement.” He contends that his current release date is October 5, 2017, and that a placement for nine months in a residential reentry center would assist him in his rehabilitation.

I decline the defendant's request. In the first place, the BOP has exclusive statutory authority over a prisoner's place of imprisonment. 18 U.S.C. § 3621(b); *see also United States v. Swisher*, No. 3:11-CR-67 (Bailey), 2013 U.S. Dist. LEXIS 40190, at \*1 (N.D. W. Va. Mar. 22, 2013). While the Second Chance Act expands the BOP's authority to place prisoners in a halfway house, it does not vest that authority in this court. 18 U.S.C. § 3624(c)(1); *see also United States v.*

*Squire*, No. 3:09-502-JFA, 2012 WL 3848364, at \*1 (D.S.C. Sept. 5, 2012). The BOP has sole discretion in deciding whether to place a prisoner in a halfway house, and if so, for how long. *See Woodall v. Fed. Bureau of Prisons*, 432 F.3d 235, 251 (3rd Cir. 2005) (holding that the BOP must analyze the five factors in § 3621(b) and “that the BOP may assign a prisoner to a [halfway house] does not mean that it must”).

While nothing prevents this court from making a recommendation, I believe that the BOP is in the best position to determine the proper placement of the defendant.

Accordingly, it is hereby **ORDERED** that the defendant’s motion (ECF No. 34) is DENIED.

ENTER: February 17, 2017

/s/ James P. Jones  
United States District Judge